

NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

3rd REGULAR SESSION, 2016

S. B. NO. 19-78

A BILL FOR AN ACT

To improve the developer infrastructure tax program by amending 4 CMC §§ 1932, 1935, 1936(a), 1939(a) and 1941; and for other purposes.

BE IT ENACTED BY THE NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that the Commonwealth
2 is presently experiencing renewed economic growth. New investors have acquired real
3 property in the Commonwealth and plan to build new hotels, water parks, restaurants,
4 shopping centers, and other commercial buildings. These new developments will take a
5 toll on our aging infrastructure system including the power, water, waste water, roads,
6 drainage, and solid waste management systems. The Legislature finds that the
7 Commonwealth's current developer infrastructure tax program must be revamped to
8 upgrade the infrastructure of the Commonwealth and ensure its capability for decades to
9 come.

10 The Legislature further finds that it is imperative for new developers to conduct
11 an infrastructure impact assessment for all new developments including major
12 renovations to ensure that the infrastructure surrounding the new development can
13 accommodate the additional load that will be added to such infrastructure. More
14 importantly, the infrastructure impact assessment is vital to ensure that the existing
15 infrastructure in place does not collapse and will be operational for the residents and
16 businesses in the affected area. Moreover, it is essential for a U.S. certified professional
17 engineer to verify an infrastructure impact assessment as well as the statement of total
18 construction costs to substantiate the information submitted to determine the developer
19 infrastructure tax amount to be paid by a developer.

1 The Legislature finds that currently there is no requirement that the developer
2 infrastructure tax paid to the Commonwealth is subsequently appropriated to address the
3 infrastructure impact of the area where the new development is built. To accomplish the
4 intent and purpose of the infrastructure tax, all taxes should first be used to pay for any
5 infrastructure impact project of a new development for which the taxes were paid. If there
6 is any surplus, the funds can be appropriated for any other infrastructure project.

7 The Legislature also that the infrastructure taxes paid for power, water, and waste
8 water systems should be appropriated and transferred the Commonwealth Utilities
9 Corporation under the expenditure authority of the executive director of the corporation.
10 Likewise, for the taxes paid for roads, drainage flood control systems, and solid waste
11 management systems infrastructure impact projects, the Secretary of the Department of
12 Public Works shall be expenditure authority of the funds appropriated for such projects.
13 Accordingly, the purpose of this legislation is to improve the developer infrastructure tax
14 program by amending 4 CMC §§ 1932, 1935, 1936(a), 1939(a) and 1941.

15 **Section 2. Amendment.** 4 CMC § 1932 is hereby amended by adding a new
16 subsection (h) to read as follows:

17 “(h) “Infrastructure Impact” means any modification in an element of those
18 structures, support systems, and appurtenances necessary to provide the public with such
19 utilities as are required for economic development, including but not limited to systems
20 providing water, sewerage, transportation, and energy, including modification as to
21 quality, quantity, aesthetics, or human or natural use thereof.

22 **Section 3. Amendment.** 4 CMC § 1935 is hereby amended to read as follows:

23 “§ 1935. **Infrastructure Impact Assessment and Statement of Total**
24 **Construction Costs; Administrative Fee.**

25 (a) *Infrastructure Impact Assessment.* Before applying for a building permit, a
26 developer shall pay for an infrastructure impact assessment on the new development
27 which shall be verified by a U.S. certified professional engineer.

28 (b) *Statement and Assessment.* Upon application for a building permit, a
29 developer shall submit a statement of estimated total project cost, an infrastructure impact

1 assessment, and evidence of tax credits, pursuant to 4 CMC § 1943, to the building safety
2 official and a U.S. certified professional engineer at the Department of Public Works or
3 Commonwealth Utilities Corporation, respectively, who shall verify the accuracy of the
4 statement and assessment. The format of the application shall be specified, by regulation,
5 by the Director of Finance, in consultation with the building safety official. A copy of the
6 statement of total project cost, the infrastructure impact assessment, and evidence of tax
7 credits shall also be filed with the Director of Finance.

8 (c) *Filing Fee*. At the time of filing a statement of total project cost, infrastructure
9 impact assessment, and evidence of tax credits, the developer shall pay to the Department
10 of Finance a nonrefundable administrative fee to be set by regulation.

11 **Section 4. Amendment.** 4 CMC § 1936(a) is hereby amended to read as follows:

12 “(a) Estimated Payment. Any person to whom the developer tax under this
13 chapter applies shall pay an estimated payment of the tax based upon the statement of
14 total project cost as verified by the building safety official and a U.S. certified
15 professional engineer at at the Department of Public Works or Commonwealth Utilities
16 Corporation, respectively. Such estimated payment must be paid to the Department of
17 Finance and a receipt therefor presented to the building safety official prior to the
18 issuance of a building permit by the building safety official. The director may authorize
19 by regulation a schedule of payments for payment of the developer tax; provided,
20 however, that the initial payment must be at least 50 percent of the total estimated
21 developer tax due.”

22 **Section 5. Amendment.** 4 CMC § 1939(a) is hereby amended to read as follows:

23 “(a) All developer taxes collected pursuant to this chapter shall be used
24 exclusively for infrastructure improvements for the benefit of the senatorial district in
25 which the development shall be located; provided that the developer taxes shall be first
26 used to pay for any infrastructure impact project of a new development for which the
27 taxes were paid. For the purposes of this chapter “infrastructure improvement” shall refer
28 only to infrastructure improvements to the following public facilities:

- 29 (1) Electrical systems;

- 1 (2) Water systems;
- 2 (3) Sewerage systems;
- 3 (4) Road, drainage and flood control systems; and
- 4 (5) Solid waste management systems.

5 Such improvements include the costs of land, construction, engineering, planning,
6 administration and legal and financial consulting fees associated with the acquisition of
7 the land or the acquisition or construction of the improvement, procurement of
8 equipment, parts and maintenance of equipment.

9 (b) The developer taxes collected in each account and the interest earned shall be
10 spent solely for purposes specified in this section.

11 (c) Administrative fees collected pursuant to this chapter shall be used to defray
12 the administrative costs of the developer tax to be incurred by the Building Safety
13 Division and the Department of Finance. The Director of Finance may hire additional
14 staff necessary to implement this chapter pursuant to budgetary appropriations.

15 **Section 6. Amendment.** 4 CMC § 1941 is hereby amended by adding a
16 subsection (a) and new subsections (b) and (c) to read as follows:

17 **“§ 1941. Appropriation and Expenditure Authority.**

18 (a) The funds in the accounts established by the Secretary of the Department of
19 Finance pursuant to this Chapter shall be appropriated by the respective legislative
20 delegation in accordance with the procedures set forth in 1 CMC §§ 1403 and 1405.

21 (b) For electrical systems, water systems, and sewerage systems infrastructure
22 impact projects, the appropriated funds shall be transferred to the Commonwealth
23 Utilities Corporation’s account and the executive director of the Commonwealth Utilities
24 Corporation shall be expenditure authority of the funds appropriated for such projects.

25 (c) For roads, drainage flood control systems, and solid waste management
26 systems infrastructure impact projects, the Secretary of the Department of Public Works
27 shall be expenditure authority of the funds appropriated for such projects.”

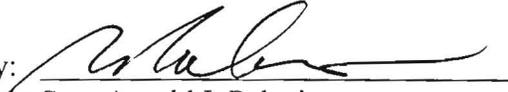
28 **Section 7. Severability.** If any provision of this Act or the application of any
29 such provision to any person or circumstance should be held invalid by a court of

1 competent jurisdiction, the remainder of this Act or the application of its provisions to
2 persons or circumstances other than those to which it is held invalid shall not be affected
3 thereby.

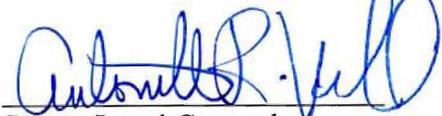
4 **Section 8. Savings Clause.** This Act and any repealer contained herein shall not
5 be construed as affecting any existing right acquired under contract or acquired under
6 statutes repealed or under any rule, regulation, or order adopted under the statutes.
7 Repealers contained in this Act shall not affect any proceeding instituted under or
8 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
9 or in any way modifying, any liability, civil or criminal, which shall already be in
10 existence on the date this Act becomes effective.

11 **Section 9. Effective Date.** This Act shall take effect upon its approval by the
12 Governor or becoming law without such approval.

Date: 1/27/16

Introduced By: 
Sen. Arnold I. Palacios

Reviewed for Legal Sufficiency by:


Senate Legal Counsel